

Appendix E

Reclamation Performance Bond

PERFORMANCE RECLAMATION BOND

A reclamation performance bond will be established for a period of 8 years. The bond will be applied to supplemental vegetation reclamation if restoration for American burying beetle habitat failed, as discussed during consultation among the U.S. Department of State, U.S. Fish and Wildlife Service, and Keystone. This performance bond will be accessible and executed by DOS, or a third party at the direction of DOS, if and when disturbed land in the ABB habitat area, as defined by the Biological Assessment, should fail to revegetate in the manner outlined below, and Keystone fails to take corrective action. Release of the bond will be solely at the discretion of DOS after soliciting recommendations from the U.S. Fish and Wildlife Service and the Nebraska Game and Parks Commission.

BOND STIPULATIONS

- Bond covers cost of supplemental reclamation for failure of land to appropriately revegetate, starting four years after commencement of construction
- Bond coverage is limited to ABB habitat areas as defined in the Biological Assessment (except for smaller areas within ABB habitat that are unsuitable for beetle occupation, such as crests of sand dunes in the Sandhills).
- Successful reclamation criteria:
 - Reclamation will be measured four years after the commencement of construction.
 - For reclamation to be deemed successful, native grasslands restored on the right-of-way must be comparable to those on adjacent undisturbed lands
 - 70 percent of the dominant species on the ROW must be the same as occur on adjacent off-ROW lands.
- Reclamation success will be determined by inspection of the defined areas jointly by Keystone and DOS or its designated agent.
- Reclamation will not be deemed unsuccessful on private lands where the landowner changes the land use during the reclamation time period or makes alterations to the seed mix proposed in the project's CMRP and Con/Rec unit.
- The value of the bond will be based on an assumed reclamation 15% failure rate, using the market cost of seed and an appropriate labor cost totalling \$300/acre, and the habitat acreages and multipliers reflected on the attached spreadsheet. On this basis, the initial amount of the bond will be \$381,137.
- At year 4, the bond amount will be adjusted to reflect the actual acreage where reclamation has not met the reclamation criteria. Each year after year 4, for the duration of the bond period, the bond amount will be readjusted to reflect the remaining acreage that has not met the reclamation criteria.

- If Keystone should fail to meet the conditions of these bond stipulations, funds from the bond up to the full amount available, will be released to DOS or its designated agent(s) to complete the reclamation work.

| Performance Bond calculations for ABB habitat reseeding failure | | | | | | | |
|---|-----------------|--------------------------------------|-----------------|--------------|---------------------------|----------------------|---------|
| | <u>SD Acres</u> | <u>NE Acres</u> | <u>OK Acres</u> | <u>Total</u> | <u>Quality Multiplier</u> | <u>Acreage value</u> | |
| TEMP Prime | 307.94 | 1123.23 | 309.35 | 1740.52 | 3 | 5221.56 | |
| TEMP Good | 92.90 | 163.06 | 448.65 | 704.61 | 2 | 1409.22 | |
| TEMP Fair | 94.13 | 98.75 | 284.34 | 477.22 | 1 | 477.22 | |
| Access Roads TEMP Prime | 0.00 | 34.18 | 39.57 | 73.75 | 3 | 221.25 | |
| Access Roads TEMP Good | 0.00 | 6.07 | 7.72 | 13.79 | 2 | 27.58 | |
| Access Roads TEMP Fair | 4.74 | 0.00 | 3.40 | 8.14 | 1 | 8.14 | |
| | | | | | | | 7364.97 |
| | | | | | | | |
| | | | | | | | |
| Total potential ABB acres affected | 7364.97 | (Acres adjusted for habitat quality) | | | | | |
| 15% failure rate after year 4 (acres) | 1104.75 | | | | | | |
| 15% failure rate after year 8 (acres) | 165.71 | | | | | | |
| Total Acres for performance Bond | 1270.46 | | | | | | |
| | | | | | | | |
| Total Bond (acres * \$300) | \$ 381,137.20 | | | | | | |

